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May 15, 2014

By Email and First Class Mail

Ms. Laura Velez-Velez
Chairman
Puerto Rico Environmental Quality Board
1375 Ponce De Leon Ave
San Juan, PR 00926

Re: Proposal to Landfill CCPs Produced at the AES Puerto Rico Facility

Dear Chairman Velez:

On behalf of AES Puerto Rico L.P. (AESPR), I write to follow up on our May 14, 2014 meeting at Puerto Rico EQB with your staff, and with representatives of the United States Environmental Protection Agency (EPA) and the Puerto Rico Electric Power Authority (PREPA). Specifically, we hereby formally request that EQB affirm that AESPR may lawfully dispose of coal combustion products (CCPs) in Puerto Rico in landfills that comply with subtitle D of the Resource Conservation and Recovery Act (RCRA).

AESPR is one of the most successful private-public partnerships in Puerto Rico. At our facility (Facility), we produce electricity with circulating fluidized bed units that are among the cleanest burning coal-fired units in the United States. For over a decade, AESPR has sold dependable capacity and energy to PREPA in accordance with the requirements of a Power Purchase Operating Agreement (PPA), providing reliable base load power and contributing approximately 15% of the electricity used every day in Puerto Rico.

Producing electricity with coal produces CCPs. Since it began operations, AESPR has marketed the CCPs produced at its Facility for beneficial use, including the manufactured aggregate produced at the Facility under the name Agremax. As one outlet for its CCPs going forward, AESPR wishes to have the option of disposing of CCPs, including Agremax, in subtitle D compliant landfills in Puerto Rico.

At present, however, the PPA includes a provision that does not permit AESPR to landfill CCPs on-island. AESPR has asked PREPA to amend the PPA to allow for the off-site disposal in Puerto Rico of CCPs produced generating electricity for Puerto Rico. The amendment would expressly provide that any disposal of CCPs would be done in accordance with applicable laws.

To date, PREPA has not agreed to revise the PPA; instead, as reiterated yesterday, before agreeing to an amendment, PREPA is asking EPA and EQB to affirm that AESPR may do what AESPR believes it could otherwise already do lawfully in Puerto Rico absent the provision in the

PPA – landfill its CCPs in a lined, subtitle D compliant landfill.¹ Yesterday, EPA was quite clear in saying that it would not have a concern with the disposal of CCPs in a lined, subtitle D compliant landfill in Puerto Rico – and in fact acknowledged that landfilling CCPs in lined, subtitle D landfills is common and lawful in the United States.

EQB staff, however, did not give their view – but instead asked for AESPR to make a formal request to EQB, which your staff assured all concerned would be responded to expeditiously. AESPR does not believe that PREPA should be insisting on this direction before amending the PPA to allow CCP disposal in a lined, compliant Subtitle D landfill. Nonetheless, to move this process forward, as outlined, AESPR hereby formally requests that EQB state in writing for PREPA that EQB confirms AESPR may lawfully dispose of CCPs in Puerto Rico landfills that comply with RCRA subtitle D.

Should you have any questions regarding this letter, please contact me.

Sincerely,



Manuel Mata

President, AES Puerto Rico L.P.

cc: Suzette Melendez Colon, EQB
Rebeca Acosta, EQB
Weldin Ortiz, EQB
Raquel Román, EQB
Rafael Marrero, PREPA
Paul Simon, EPA
Gary Nurkin, EPA
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Carl Plossl, EPA
Ron Rodrique, AESPR
Marc Michael, AES
Pedro Reyes, for AESPR
David Buente, for AESPR
Sylvia Lowrance, for AESPR
Michael Krantz, for AESPR
Sam Boxerman, for AESPR

¹ Letter from Juan F. Alicea Flores, PREPA, to Manuel Mata, AESPR (May 8, 2014).